



Rep. Thomas Holbrook

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1 AMENDMENT TO SENATE BILL 1299

2 AMENDMENT NO. _____. Amend Senate Bill 1299, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Public Utilities Act is amended by adding
6 Section 20-130 and by changing Sections 8-406, 8-503, and
7 16-118 as follows:

8 (220 ILCS 5/8-406) (from Ch. 111 2/3, par. 8-406)

9 Sec. 8-406. Certificate of public convenience and
10 necessity.

11 (a) No public utility not owning any city or village
12 franchise nor engaged in performing any public service or in
13 furnishing any product or commodity within this State as of
14 July 1, 1921 and not possessing a certificate of public
15 convenience and necessity from the Illinois Commerce
16 Commission, the State Public Utilities Commission or the Public

1 Utilities Commission, at the time this amendatory Act of 1985
2 goes into effect, shall transact any business in this State
3 until it shall have obtained a certificate from the Commission
4 that public convenience and necessity require the transaction
5 of such business.

6 (b) No public utility shall begin the construction of any
7 new plant, equipment, property or facility which is not in
8 substitution of any existing plant, equipment, property or
9 facility or any extension or alteration thereof or in addition
10 thereto, unless and until it shall have obtained from the
11 Commission a certificate that public convenience and necessity
12 require such construction. Whenever after a hearing the
13 Commission determines that any new construction or the
14 transaction of any business by a public utility will promote
15 the public convenience and is necessary thereto, it shall have
16 the power to issue certificates of public convenience and
17 necessity. The Commission shall determine that proposed
18 construction will promote the public convenience and necessity
19 only if the utility demonstrates: (1) that the proposed
20 construction is necessary to provide adequate, reliable, and
21 efficient service to its customers and is the least-cost means
22 of satisfying the service needs of its customers or that the
23 proposed construction will promote the development of an
24 effectively competitive electricity market that operates
25 efficiently, is equitable to all customers, and is the least
26 cost means of satisfying those objectives; (2) that the utility

1 is capable of efficiently managing and supervising the
2 construction process and has taken sufficient action to ensure
3 adequate and efficient construction and supervision thereof;
4 and (3) that the utility is capable of financing the proposed
5 construction without significant adverse financial
6 consequences for the utility or its customers.

7 (c) After the effective date of this amendatory Act of
8 1987, no construction shall commence on any new nuclear power
9 plant to be located within this State, and no certificate of
10 public convenience and necessity or other authorization shall
11 be issued therefor by the Commission, until the Director of the
12 Illinois Environmental Protection Agency finds that the United
13 States Government, through its authorized agency, has
14 identified and approved a demonstrable technology or means for
15 the disposal of high level nuclear waste, or until such
16 construction has been specifically approved by a statute
17 enacted by the General Assembly.

18 As used in this Section, "high level nuclear waste" means
19 those aqueous wastes resulting from the operation of the first
20 cycle of the solvent extraction system or equivalent and the
21 concentrated wastes of the subsequent extraction cycles or
22 equivalent in a facility for reprocessing irradiated reactor
23 fuel and shall include spent fuel assemblies prior to fuel
24 reprocessing.

25 (d) In making its determination, the Commission shall
26 attach primary weight to the cost or cost savings to the

1 customers of the utility. The Commission may consider any or
2 all factors which will or may affect such cost or cost savings.

3 (e) The Commission may issue a temporary certificate which
4 shall remain in force not to exceed one year in cases of
5 emergency, to assure maintenance of adequate service or to
6 serve particular customers, without notice or hearing, pending
7 the determination of an application for a certificate, and may
8 by regulation exempt from the requirements of this Section
9 temporary acts or operations for which the issuance of a
10 certificate will not be required in the public interest.

11 A public utility shall not be required to obtain but may
12 apply for and obtain a certificate of public convenience and
13 necessity pursuant to this Section with respect to any matter
14 as to which it has received the authorization or order of the
15 Commission under the Electric Supplier Act, and any such
16 authorization or order granted a public utility by the
17 Commission under that Act shall as between public utilities be
18 deemed to be, and shall have except as provided in that Act the
19 same force and effect as, a certificate of public convenience
20 and necessity issued pursuant to this Section.

21 No electric cooperative shall be made or shall become a
22 party to or shall be entitled to be heard or to otherwise
23 appear or participate in any proceeding initiated under this
24 Section for authorization of power plant construction and as to
25 matters as to which a remedy is available under The Electric
26 Supplier Act.

1 (f) Such certificates may be altered or modified by the
2 Commission, upon its own motion or upon application by the
3 person or corporation affected. Unless exercised within a
4 period of 2 years from the grant thereof authority conferred by
5 a certificate of convenience and necessity issued by the
6 Commission shall be null and void.

7 No certificate of public convenience and necessity shall be
8 construed as granting a monopoly or an exclusive privilege,
9 immunity or franchise.

10 (Source: P.A. 90-561, eff. 12-16-97.)

11 (220 ILCS 5/8-503) (from Ch. 111 2/3, par. 8-503)

12 Sec. 8-503. Whenever the Commission, after a hearing, shall
13 find that additions, extensions, repairs or improvements to, or
14 changes in, the existing plant, equipment, apparatus,
15 facilities or other physical property of any public utility or
16 of any 2 or more public utilities are necessary and ought
17 reasonably to be made or that a new structure or structures is
18 or are necessary and should be erected, to promote the security
19 or convenience of its employees or the public or promote the
20 development of an effectively competitive electricity market,
21 or in any other way to secure adequate service or facilities,
22 the Commission shall make and serve an order authorizing or
23 directing that such additions, extensions, repairs,
24 improvements or changes be made, or such structure or
25 structures be erected at the location, in the manner and within

1 the time specified in said order; provided, however, that the
2 Commission shall have no authority to order the construction,
3 addition or extension of any electric generating plant unless
4 the public utility requests a certificate for the construction
5 of the plant pursuant to Section 8-406 and in conjunction with
6 such request also requests the entry of an order under this
7 Section. If any additions, extensions, repairs, improvements
8 or changes, or any new structure or structures, which the
9 Commission has authorized or ordered to be erected, require
10 joint action by 2 or more public utilities, the Commission
11 shall notify the said public utilities that such additions,
12 extensions, repairs, improvements or changes or new structure
13 or structures have been authorized or ordered and that the same
14 shall be made at the joint cost whereupon the said public
15 utilities shall have such reasonable time as the Commission may
16 grant within which to agree upon the apportionment or division
17 of cost of such additions, extensions, repairs, improvements or
18 changes or new structure or structures, which each shall bear.
19 If at the expiration of such time such public utilities shall
20 fail to file with the Commission a statement that an agreement
21 has been made for a division or apportionment of the cost or
22 expense of such additions, extensions, repairs, improvements
23 or changes, or new structure or structures, the Commission
24 shall have authority, after further hearing, to make an order
25 fixing the proportion of such cost or expense to be borne by
26 each public utility and the manner in which the same shall be

1 paid or secured.

2 Nothing in this Act shall prevent the Commission, upon its
3 own motion or upon petition, from ordering, after a hearing,
4 the extension, construction, connection or interconnection of
5 plant, equipment, pipe, line, facilities or other physical
6 property of a public utility in whatever configuration the
7 Commission finds necessary to ensure that natural gas is made
8 available to consumers at no increased cost to the customers of
9 the utility supplying the gas.

10 Whenever the Commission finds, after a hearing, that the
11 public convenience or necessity requires it, the Commission may
12 order public utilities subject to its jurisdiction to work
13 jointly (1) for the purpose of purchasing and distributing
14 natural gas or gas substitutes, provided it shall not increase
15 the cost of gas to the customers of the participating
16 utilities, or (2) for any other reasonable purpose.

17 (Source: P.A. 90-561, eff. 12-16-97.)

18 (220 ILCS 5/16-118)

19 Sec. 16-118. Services provided by electric utilities to
20 alternative retail electric suppliers.

21 (a) It is in the best interest of Illinois energy consumers
22 to promote fair and open competition in the provision of
23 electric power and energy and to prevent anticompetitive
24 practices in the provision of electric power and energy.
25 Therefore, to the extent an electric utility provides electric

1 power and energy or delivery services to alternative retail
2 electric suppliers and such services are not subject to the
3 jurisdiction of the Federal Energy Regulatory Commission, and
4 are not competitive services, they shall be provided through
5 tariffs that are filed with the Commission, pursuant to Article
6 IX of this Act. Each electric utility shall permit alternative
7 retail electric suppliers to interconnect facilities to those
8 owned by the utility provided they meet established standards
9 for such interconnection, and may provide standby or other
10 services to alternative retail electric suppliers. The
11 alternative retail electric supplier shall sign a contract
12 setting forth the prices, terms and conditions for
13 interconnection with the electric utility and the prices, terms
14 and conditions for services provided by the electric utility to
15 the alternative retail electric supplier in connection with the
16 delivery by the electric utility of electric power and energy
17 supplied by the alternative retail electric supplier.

18 (b) An electric utility shall file a tariff pursuant to
19 Article IX of the Act that would allow alternative retail
20 electric suppliers or electric utilities other than the
21 electric utility in whose service area retail customers are
22 located to issue single bills to the retail customers for both
23 the services provided by such alternative retail electric
24 supplier or other electric utility and the delivery services
25 provided by the electric utility to such customers. The tariff
26 filed pursuant to this subsection shall (i) require partial

1 payments made by retail customers to be credited first to the
2 electric utility's tariffed services, (ii) impose commercially
3 reasonable terms with respect to credit and collection,
4 including requests for deposits, (iii) retain the electric
5 utility's right to disconnect the retail customers, if it does
6 not receive payment for its tariffed services, in the same
7 manner that it would be permitted to if it had billed for the
8 services itself, and (iv) require the alternative retail
9 electric supplier or other electric utility that elects the
10 billing option provided by this tariff to include on each bill
11 to retail customers an identification of the electric utility
12 providing the delivery services and a listing of the charges
13 applicable to such services. The tariff filed pursuant to this
14 subsection may also include other just and reasonable terms and
15 conditions. In addition, an electric utility, an alternative
16 retail electric supplier or electric utility other than the
17 electric utility in whose service area the customer is located,
18 and a customer served by such alternative retail electric
19 supplier or other electric utility, may enter into an agreement
20 pursuant to which the alternative retail electric supplier or
21 other electric utility pays the charges specified in Section
22 16-108, or other customer-related charges, including taxes and
23 fees, in lieu of such charges being recovered by the electric
24 utility directly from the customer.

25 (c) An electric utility with more than 100,000 customers
26 shall file a tariff pursuant to Article IX of this Act that

1 provides alternative retail electric suppliers, and electric
2 utilities other than the electric utility in whose service area
3 the retail customers are located with the option to have the
4 electric utility purchase their receivables for power and
5 energy service provided to retail customers with a
6 non-coincident peak demand of less than 400 kilowatts.
7 Receivables for power and energy of alternative retail electric
8 suppliers or electric utilities other than the electric utility
9 in whose service area the retail customers are located shall be
10 purchased by the electric utility at a just and reasonable
11 discount rate to be reviewed and approved by the Commission
12 after notice and hearing. The discount rate shall be based on
13 the electric utility's historical bad debt and any reasonable
14 start-up costs and administrative costs associated with the
15 electric utility's purchase of receivables. The discounted
16 rate for purchase of receivables shall be included in the
17 tariff filed pursuant to this subsection (c). The discount rate
18 filed pursuant to this subsection shall be subject to periodic
19 Commission review. The electric utility shall impose the same
20 terms on retail customers with respect to credit and
21 collection, including requests for deposits, and retain the
22 electric utility's right to disconnect the retail customers, if
23 it does not receive payment for its tariffed services or
24 purchased receivables, in the same manner that it would be
25 permitted to if the retail customers purchased power and energy
26 from the electric utility. The tariff filed pursuant to this

1 subsection (c) may also include other just and reasonable terms
2 and conditions and shall provide for the prudently incurred
3 costs associated with the provision of this service pursuant to
4 this subsection (c).

5 (d) An electric utility with more than 100,000 customers
6 shall file a tariff pursuant to Article IX of this Act that
7 would provide alternative retail electric suppliers or
8 electric utilities other than the electric utility in whose
9 service area retail customers are located with the option to
10 have the electric utility produce and provide single bills to
11 the retail customers for both the electric power and energy
12 service provided by the alternative retail electric supplier or
13 other electric utility and the delivery services provided by
14 the electric utility to the customers. The tariffs filed
15 pursuant to this subsection shall require the electric utility
16 to collect and remit customer payments for electric power and
17 energy service provided by alternative retail electric
18 suppliers or electric utilities other than the electric utility
19 in whose service area retail customers are located. The tariff
20 filed pursuant to this subsection shall require the electric
21 utility to include on each bill to retail customers an
22 identification of the alternative retail electric supplier or
23 other electric utility that elects the billing option. The
24 tariff filed pursuant to this subsection (d) may also include
25 other just and reasonable terms and conditions and shall
26 provide for the recovery of prudently incurred costs associated

1 with the provision of service pursuant to this subsection (d).
2 The costs associated with the provision of service pursuant to
3 this section shall be subject to periodic Commission review.

4 (e) An electric utility with more than 100,000 customers in
5 this State shall file a tariff pursuant to Article IX of this
6 Act that provides alternative retail electric suppliers with
7 the option to have the electric utility purchase 2 billing
8 cycles worth of uncollectible receivables for power and energy
9 service provided to a retail customer with a non-coincident
10 peak demand of less than 400 kilowatts upon returning that
11 customer to that electric utility for delivery and energy
12 service after that alternative retail electric supplier has
13 made reasonable collection efforts on that account. These
14 receivables will be purchased at discounted rates based on
15 historical bad debt for receivables that are outstanding for a
16 similar length of time. The electric utility retains the right
17 to impose the same terms on these retail customers with respect
18 to credit and collection, including requests for deposits, and
19 retain the right to disconnect these retail customers in the
20 same manner that it would be permitted to if the customers had
21 purchased power and energy from the utility. The electric
22 utility shall recover the cost of such uncollectable
23 receivables purchased, as well as any prudently incurred
24 administrative expenses incurred in connection with this
25 subsection through its tariff filing implementing this service
26 with the Commission but shall not permit the double recovery of

1 utility bad debt expenses from customers.

2 (Source: P.A. 90-561, eff. 12-16-97.)

3 (220 ILCS 5/20-130 new)

4 Sec. 20-130. Retail choice and referral programs.

5 (a) The Commission shall have the authority to establish
6 retail choice and referral programs to be administered by an
7 electric utility or the State in which residential and small
8 commercial customers receive incentives, including, but not
9 limited to, discounted rate introductory offers for switching
10 to participating electric suppliers.

11 (b) Reasonable costs associated with the implementation
12 and operation of customer choice and referral programs may be
13 recovered in an electric utility's distribution rates.
14 Reasonable costs associated with the implementation and
15 operation of a customer choice program may also be recovered
16 from retail electric suppliers participating in a customer
17 choice and referral program. In no event, however, shall the
18 Commission mandate a cost recovery mechanism without first
19 providing all interested parties notice and an opportunity to
20 be heard in a hearing before the Commission.

21 (c) The Office of Retail Market Development shall serve as
22 the clearinghouse for the development of retail choice and
23 referral programs and shall work with electric utilities and
24 interested parties on a continuous basis to implement and
25 improve upon the programs. Nothing in this Section, however,

1 shall prevent an electric utility on its own accord from
2 implementing retail choice and referral programs.

3 (d) Only customers that qualify for utility service shall
4 be eligible for retail choice and referral programs.

5 (e) The Office of Retail Market Development shall
6 immediately upon the effective date of this amendatory Act of
7 the 95th General Assembly explore for possible implementation
8 on as expedited a basis as possible the following retail choice
9 and referral programs:

10 (1) An introductory fixed discount program in which
11 suppliers participating in the program offer customers a
12 fixed percentage discount off of the electric utility's
13 supply rate for a set number of billing periods. Customers
14 would be able to enroll in the program by using an online
15 enrollment form, completing an enrollment card found in
16 their monthly electric utility bill, or by calling a
17 toll-free number. Customers would be free to withdraw from
18 the program at any time and select another alternative
19 retail electric supplier or return to the electric utility.

20 (2) A new customer program in which electric utilities
21 would offer consumers initiating new electric service a
22 choice of offers from participating electric suppliers to
23 provide the consumer's electric supply service. Customers
24 expressing a preference for a specific electric supplier
25 would be enrolled with that supplier. Customers not
26 expressing a preference for a specific electric supplier

1 would be offered the opportunity to enroll with an electric
2 supplier selected randomly on a rotating basis.

3 (3) A customer service call center referral program in
4 which customers calling an electric utility's call center
5 would be offered enrollment with an alternative retail
6 electric supplier and informed that they have the option to
7 receive immediate savings or introductory offers by
8 participating in the referral program. Customers choosing
9 to participate would be transferred to a customer service
10 representative for the program and would either select the
11 electric supplier from which they would like to take
12 service or be placed with a participating electric supplier
13 chosen at random on a rotating basis.

14 Nothing in this Section shall prevent the Office of Retail
15 Market Development or the Commission from considering retail
16 choice and referral programs in addition to the programs
17 outlined in this Section.

18 Section 10. The Consumer Fraud and Deceptive Business
19 Practices Act is amended by changing Section 2EE as follows:

20 (815 ILCS 505/2EE)

21 Sec. 2EE. Electric service provider selection. An electric
22 service provider shall not submit or execute a change in a
23 subscriber's selection of a provider of electric service unless
24 and until (i) the provider first discloses all material terms

1 and conditions of the offer to the subscriber; (ii) the
2 provider has obtained the subscriber's express agreement to
3 accept the offer after the disclosure of all material terms and
4 conditions of the offer; and (iii) the provider has confirmed
5 the request for a change in accordance with one of the
6 following procedures ~~except as follows:~~

7 (a) The new electric service provider has obtained the
8 subscriber's ~~customer's~~ written or electronically signed
9 authorization in a form that meets the following requirements:

10 (1) An electric service provider shall obtain any
11 necessary written authorization from a subscriber for a
12 change in electric service by using a letter of agency as
13 specified in this Section. Any letter of agency that does
14 not conform with this Section is invalid.

15 (2) The letter of agency shall be a separate document
16 (an easily separable document containing only the
17 authorization language described in subparagraph (a)(5) of
18 this Section) whose sole purpose is to authorize an
19 electric service provider change. The letter of agency must
20 be signed and dated by the subscriber requesting the
21 electric service provider change.

22 (3) The letter of agency shall not be combined with
23 inducements of any kind on the same document.

24 (4) Notwithstanding subparagraphs (a)(1) and (a)(2) of
25 this Section, the letter of agency may be combined with
26 checks that contain only the required letter of agency

1 language prescribed in subparagraph (a) (5) ~~paragraph (5)~~
2 of this Section and the necessary information to make the
3 check a negotiable instrument. The letter of agency check
4 shall not contain any promotional language or material. The
5 letter of agency check shall contain in easily readable,
6 bold-face type on the face of the check, a notice that the
7 consumer is authorizing an electric service provider
8 change by signing the check. The letter of agency language
9 also shall be placed near the signature line on the back of
10 the check.

11 (5) At a minimum, the letter of agency must be printed
12 with a print of sufficient size to be clearly legible, and
13 must contain clear and unambiguous language that confirms:

14 (i) The subscriber's billing name and address;

15 (ii) The decision to change the electric service
16 provider from the current provider to the prospective
17 provider;

18 (iii) The terms, conditions, and nature of the
19 service to be provided to the subscriber must be
20 clearly and conspicuously disclosed, in writing, and
21 an electric service provider must directly establish
22 the rates for the service contracted for by the
23 subscriber; and

24 (iv) That the subscriber understand that any
25 electric service provider selection the subscriber
26 chooses may involve a charge to the subscriber for

1 changing the subscriber's electric service provider.

2 (6) Letters of agency shall not suggest or require that
3 a subscriber take some action in order to retain the
4 subscriber's current electric service provider.

5 (7) If any portion of a letter of agency is translated
6 into another language, then all portions of the letter of
7 agency must be translated into that language.

8 (b) An appropriately qualified independent third party has
9 obtained, in accordance with the procedures set forth in this
10 subsection (b), the subscriber's oral authorization to change
11 electric suppliers that confirms and includes appropriate
12 verification data. The independent third party (i) must not be
13 owned, managed, controlled, or directed by the supplier or the
14 supplier's marketing agent; (ii) must not have any financial
15 incentive to confirm supplier change requests for the supplier
16 or the supplier's marketing agent; and (iii) must operate in a
17 location physically separate from the supplier or the
18 supplier's marketing agent.

19 Automated third-party verification systems and 3-way
20 conference calls may be used for verification purposes so long
21 as the other requirements of this subsection (b) are satisfied.

22 A supplier or supplier's sales representative initiating a
23 3-way conference call or a call through an automated
24 verification system must drop off the call once the 3-way
25 connection has been established.

26 All third-party verification methods shall elicit, at a

1 minimum, the following information: (i) the identity of the
2 subscriber; (ii) confirmation that the person on the call is
3 authorized to make the supplier change; (iii) confirmation that
4 the person on the call wants to make the supplier change; (iv)
5 the names of the suppliers affected by the change; (v) the
6 service address of the supply to be switched; and (vi) the
7 price of the service to be supplied and the material terms and
8 conditions of the service being offered, including whether any
9 early termination fees apply. Third-party verifiers may not
10 market the supplier's services by providing additional
11 information, including information regarding procedures to
12 block or otherwise freeze an account against further changes.

13 All third-party verifications shall be conducted in the
14 same language that was used in the underlying sales transaction
15 and shall be recorded in their entirety. Submitting suppliers
16 shall maintain and preserve audio records of verification of
17 subscriber authorization for a minimum period of 2 years after
18 obtaining the verification. Automated systems must provide
19 consumers with an option to speak with a live person at any
20 time during the call.

21 (c) When a subscriber initiates the call to the prospective
22 electric supplier and the prospective electric supplier has,
23 with the consent of the customer, made a date-stamped and
24 time-stamped audio recording that elicits, at a minimum, the
25 following information:

26 (1) the identity of the subscriber;

1 (2) confirmation that the person on the call is
2 authorized to make the supplier change;

3 (3) confirmation that the person on the call wants to
4 make the supplier change;

5 (4) the names of the suppliers affected by the change;

6 (5) the service address of the supply to be switched;
7 and

8 (6) the price of the service to be supplied and the
9 material terms and conditions of the service being offered,
10 including whether any early termination fees apply.

11 Submitting suppliers shall maintain and preserve the audio
12 records containing the information set forth above for a
13 minimum period of 2 years.

14 (d) Complaints may be filed with the Illinois Commerce
15 Commission under this Section by a subscriber whose electric
16 service has been provided by an electric service supplier in a
17 manner not in compliance with this Section. If, after notice
18 and hearing, the Commission finds that an electric service
19 provider has violated this Section, the Commission may in its
20 discretion do any one or more of the following:

21 (1) Require the violating electric service provider to
22 refund to the subscriber charges collected in excess of
23 those that would have been charged by the subscriber's
24 authorized electric service provider.

25 (2) Require the violating electric service provider to
26 pay to the subscriber's authorized electric supplier the

1 amount the authorized electric supplier would have
2 collected for the electric service. The Commission is
3 authorized to reduce this payment by any amount already
4 paid by the violating electric supplier to the subscriber's
5 authorized provider for electric service.

6 (3) Require the violating electric subscriber to pay a
7 fine of up to \$1,000 into the Public Utility Fund for each
8 repeated and intentional violation of this Section.

9 (4) Issue a cease and desist order.

10 (5) For a pattern of violation of this Section or for
11 intentionally violating a cease and desist order, revoke
12 the violating provider's certificate of service authority.

13 (e) For purposes of this Section, "electric service
14 provider" shall have the meaning given that phrase in Section
15 6.5 of the Attorney General Act.

16 (Source: P.A. 90-561, eff. 12-16-97.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law."